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REMARKS

Reconsideration of this application, as amended, is respectfully requested.

In the Official Action, the Examiner objects to claims 1, 2, 4, 5, 10 and 12.

With regard to claim 1, the Examiner argues that there is no antecedent basis for the term "the human body." In response, the same has been deleted from claim 1. However, as discussed below claim 1 has been amended. The amendment to claim 1 adds the recitation of --a human body--. With regard to claim 2, the Examiner argues that the limitation "the catch unit" renders the claim indefinite because from the alternative language used in claim 1, it is not clear whether or not the medical capsule retrieval device comprises a catch unit. In response, claim 1 has been amended to remove the alternative recitation of the detector. Claim 2 has been amended to be consistent therewith and claims 6-9 have been canceled as being directed to the detector. Further with regard to claim 2, the Examiner also argues that the limitations "a magnet arranged in the medical capsule" renders the claim indefinite because it is not clear whether the capsule retrieval device comprises the medical capsule itself. In response, the objectionable phrase has been deleted from claim 2 and claim 2 has been further amended to inferentially recite the medical capsule.

Accordingly, it is respectfully requested that the objections to claims 1, 2, 4, 5, 10 and 12 be withdrawn.

In the Official Action, the Examiner rejects claims 1, 4 and 12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,941,896 to Kerr (hereinafter "Kerr"). Additionally, the Examiner rejects claims 1, 2, 4 and 12 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,319,268 to Ambrisco et al., (hereinafter "Ambrisco"). Furthermore, the Examiner rejects claim 5 under 35 U.S.C. § 103(a) as being unpatentable

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over Kerr in view of U.S. Patent Application Publication No. 2003/0176884 to Berrada et al., (hereinafter "Berrada"). Still further, the Examiner rejects claim 5 under 35 U.S.C. § 103(a) as being unpatentable over Ambrisco in view of Berrada. Still further, the Examiner rejects claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Kerr in view of U.S. Patent No. 3,150,813 to Wellman (hereinafter "Wellman"). Still further, the Examiner rejects claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Kerr in view of U.S. Patent No. 3,150,813 to Wellman (hereinafter "Wellman"). Still further yet, the Examiner rejects claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Ambrisco in view of Wellman. Lastly, the Examiner rejects claims 29 and 31 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,632,175 to Marshall (hereinafter "Marshall") in view of U.S. Patent No. 6,632,171 to Iddan et al., (hereinafter "Iddan").

In response, Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. §§ 102(b) and 103(a) for at least the reasons set forth below.

With regard to independent claim 1, Kerr is directed to a blood filter for trapping emboli in a blood vessel and is not directed at all to capturing or detecting a medical capsule. Furthermore, the blood filter disclosed in Kerr is made very small and having a fine mesh for fitting within a blood vessel and for filtering the emboli from the blood. Therefore, the blood filter of Kerr could not be capable of capturing a capsule endoscope.

Further with regard to claim 1, Ambrisco is also directed to blood filters for trapping and removing emboli from blood during an endovascular procedure (see column 1, lines 10-12). As with Kerr, the blood filters of Ambrisco are disposed in blood vessels and have fine mesh filters for trapping emboli (column 2, lines 40-45) and could not be capable of capturing a capsule endoscope.

With regard to the rejections of claims 1, 2, 4 and 12 under 35 U.S.C. § 102(b), a medical capsule retrieval device having the features discussed above and as recited in independent claim 1, is nowhere disclosed in either Kerr or Ambrisco. Since it has been decided that "anticipation requires the presence in a single prior art reference, disclosure of each and every element of the claimed invention, arranged as in the claim,"¹ independent claim 1 is not anticipated by either Kerr or Ambrisco. Accordingly, independent claim 1 patentably distinguishes over both Kerr and Ambrisco and is allowable. Claims 2, 4 and 12 being dependent upon claim 1, are thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 1, 2, 4 and 12 under 35 U.S.C. § 102(b).

With regard to the rejections of claims 5 and 10 under 35 U.S.C. § 103(a), since independent claim 1 patentably distinguishes over the prior art and is allowable, claims 5 and 10 are at least allowable therewith because they depend from an allowable base claim.

Furthermore, the Applicants respectfully submit that not only does Kerr and Ambrisco not teach a capsule endoscope retrieval device, they are directed to a non-analogous art because they are from a different field of endeavor (blood filters) and are directed to different objectives. The present application is directed to retrieval of a medical capsule after being discharged from a human body, while Kerr is directed to providing a collapsible filter for trapping emboli from blood (see column 2, lines 18-24 of Kerr) and Ambrisco is directed to self adjusting blood filter sizes to fit the size of the blood vessel in which the filter resides (see column 2, lines 18-24 of Ambrisco).

¹ Lindeman Maschinenfabrik GMBH v. American Hoist and Derrick Company, 730 F.2d 1452, 1458; 221 U.S.P.Q. 481, 485 (Fed. Cir., 1984).

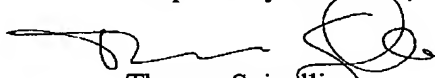
Accordingly, Applicants respectfully submit that neither the Kerr or Ambrisco references are in the same field of endeavor as the present application, nor are they reasonably pertinent to the particular problem with which the inventor of the present application was involved. Consequently, the Examiner is respectfully requested to withdraw the cited references, thereby rendering the 35 U.S.C. §§ 102(b) and 103(a) rejections of claims 1, 2, 4, 5, 10 and 12 moot.

With regard to independent claim 29, neither Marshall nor Iddan teach the use of a catch unit for catching a medical capsule upon discharge from within the human body. Marshall merely discloses that the capsule is captured upon exit (column 3, lines 58-63) with no further explanation and detail. The Examiner argues that Iddan discloses such a catch unit. However, Iddan teaches devices for releasing the capsule from another device, not capturing the capsule (as is clear from the title, Abstract, Brief Description of Drawings and detailed description of Iddan, in particular, column 3, lines 5-8 and column 4, lines 17-21).

Thus, independent claim 29 is not rendered obvious by the cited references because neither the Marshall patent nor the Iddan patent, whether taken alone or in combination, teach or suggest a retrieval method for retrieving a medical capsule having the features discussed above. Accordingly, claim 1 patentably distinguishes over the prior art and is allowable. Claim 31 being dependent upon claim 29 is thus at least allowable therewith. Consequently, the Examiner is respectfully requested to withdraw the rejection of claims 29 and 31 under 35 U.S.C. § 103(a).

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



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